UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE CHRYSLER-DODGE-JEEP ECODIESEL MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY LITIGATION.	Case No. 17-md-02777-EMC **PRETRIAL ORDER NO. 1: INITIAL CONFERENCE**

The Judicial Panel on Multidistrict Litigation ("Panel") has transferred certain marketing, sales practices, and products liability lawsuits relating to EcoDiesel-powered Jeep Grand Cherokee and Dodge Ram vehicles to this Court for coordinated pretrial proceedings. As the number and complexity of these actions warrant holding a single, coordinated initial case management conference for all actions, the Court **ORDERS** as follows:

1. **APPLICABILITY OF ORDER.** Prior to the initial conference and entry of a comprehensive order governing all further proceedings in this case, the provisions of this Order shall govern the practice and procedure in those actions that were transferred to this Court by the Panel. This Order applies to all related cases filed in all divisions of the Northern District of California and all "tag-along actions" later filed in, removed to, or transferred to this Court.

2. **CONSOLIDATION.** The civil actions transferred to this Court or related to the actions already pending before this Court are consolidated for pretrial purposes. Any "tag-along actions" transferred to this Court, or directly filed in the Northern District of California, will automatically be consolidated with this action without the necessity of future motions or orders. This consolidation does not constitute a determination that the actions should be consolidated for trial, nor does it have the effect of making any entity a party to any action in which he, she or it

has not been named, served or added in accordance with the Federal Rules of Civil Procedure.

3. **DATE OF INITIAL CONFERENCE AND CONFERENCE AGENDA.** The Court will conduct an initial conference on May 24, 2017, at 10:00 a.m., in Courtroom No. 5, 17th Floor, 450 Golden Gate Avenue, San Francisco California.

Lead defense counsel is required to appear in person at the conference. One week prior to the initial conference, Defendants shall submit a written submission advising the Court as to the status of all litigation pending in this MDL matter, as well as the status of all potential tag-along cases. The submission shall also advise the Court of the steps Defendants have taken to preserve relevant evidence, including electronically stored information. Defense counsel shall be prepared at the initial conference to answer questions from the Court regarding the written submission, litigation status and evidence preservation.

Any counsel for Plaintiffs who has applied to be Lead Counsel or a member of the Steering Committee (see Paragraph 5, *infra*) is required to appear in person at the conference.

4. **LISTENING LIVE TO THE INITIAL CONFERENCE.** Counsel, other than lead defense counsel and Plaintiffs' counsel who have applied for appointment, may listen to the initial conference through CourtCall and thus need not incur the expense and burden of attending this conference in person. Access to the conference may be arranged by calling CourtCall at (866) 582-6878 not later than 5:00 p.m. of the day preceding the initial conference. CourtCall participants may only listen to the proceedings.

5. **APPOINTMENT OF PLAINTIFFS' LEAD COUNSEL AND STEERING COMMITTEE(S).** The Court intends to appoint Plaintiffs' Lead Counsel and Plaintiffs' Steering Committee(s) to conduct and coordinate the pretrial stage of this litigation with the defendants' representatives or committee. The Court may appoint Steering Committee members whose primary responsibility is to represent the interests of particular categories of putative plaintiff class members.

The Court requires *individual* application for a Lead Counsel or Steering Committee position. Any attorney who has filed an action in this MDL litigation or a potential tag-along case (assuming that the potential tag-along case is ultimately transferred to this Court) may apply for a

Lead Counsel or Steering Committee position or both. All applications must be e-filed in the Master file, 17-MD-2777, on or before two weeks prior to the initial conference.

Each attorney's application shall include a resume no longer than two pages and a letter no longer than three pages (single-spaced) addressing the following criteria:

(1) professional experience in this type of litigation, including MDL experience as lead or liaison counsel and/or service on any plaintiffs' committees or subcommittees;

(2) the names and contact information of judges before whom the applicant has appeared in the matters discussed in response to No. 1 above;

(3) experience with class action or mass litigation involving injunctions as well as monetary relief;

(4) willingness and ability to immediately commit to time-consuming litigation;

(5) willingness and ability to work cooperatively with other plaintiffs' counsel and defense counsel;

(6) access to resources to prosecute the litigation in a timely manner;

(7) willingness to serve as Lead Counsel, a member of a Steering Committee, or both;

(8) the particular category or categories of plaintiffs the applicant wants to specifically represent;

(9) any other considerations that qualify counsel for a leadership position; and

(10) recommendations as to the size and structure of the Steering Committee, including consideration of diversity.

Applications may also include an attachment indicating the names of other counsel who have filed cases in this MDL litigation and support the applicant's appointment as Lead Counsel or a Steering Committee member.

All responses or objections to applications must be e-filed in the Master file, 17-MD-2777, on or before one week prior to the initial conference and are likewise limited to three single-spaced pages.

The Court shall hold a hearing on the selection of Plaintiffs' Lead Counsel and Steering Committee(s) on June 14, 2017 at 10:00 a.m.

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6. **MASTER DOCKET FILE.** The Clerk of Court will maintain a master docket case file under the style "In re Chrysler-Dodge-Jeep EcoDiesel Marketing, Sales Practices, and Products Liability Litigation" and the identification "MDL 2777." When a pleading is intended to apply to all actions, this shall be indicated by the words: "This Document Relates to: ALL ACTIONS." When a pleading is intended to apply to fewer than all cases, this Court's docket number for each individual case to which the document number relates shall appear immediately after the words "This Document Relates to."

7. **FILING.** Each attorney of record is obligated to become a Northern District of California ECF User and be assigned a user ID and password for access to the system. If she or he has not already done so, counsel shall register forthwith as an ECF User and be issued an ECF User ID and password. Forms and instructions can be found on the Court's website at www.cand.uscourts.gov/cm-ecf. All documents shall be e-filed in the Master file, 17-MD-2777. Documents that pertain to one or only some of the pending actions shall also be e-filed in the individual case(s) to which the document pertains. Registration instructions for pro se parties who wish to e-file can be found on the Court's website at www.cand.uscourts.gov/ECF/proseregistration.

8. **APPEARANCES.** Counsel who are not admitted to practice before the Northern District of California must file an application to be admitted pro hac vice. *See* N.D. Cal. Civ. L.R. 11-3. The requirement that pro hac vice counsel retain local counsel, *see* N.D. Cal. Civ. L.R. 11-3(a)(3), 11-3(e), is waived and does not apply to this MDL action.

9. **RESPONSE EXTENSION AND STAY.** Defendants are granted an extension of time for responding by motion or answer to the complaints until a date to be set by this Court. Pending further order of this Court, all outstanding discovery proceedings are stayed, and no further discovery shall be initiated. Moreover, all pending motions must be renoticed for resolution once the Court sets a schedule for any such motions.

10. **PRESERVATION OF EVIDENCE.** All parties and counsel are reminded of their duty to preserve evidence that may be relevant to this action, including electronically stored information. Any evidence preservation order previously entered in any of the transferred actions

shall remain in full force and effect until further order of the Court. Until the parties reach an agreement on a preservation plan for all cases or the Court orders otherwise, each party shall take reasonable steps to preserve all evidence that may be relevant to this litigation. Counsel, as officers of the court, are obligated to exercise all reasonable efforts to identify and notify parties and nonparties, including employees of corporate or institutional parties, of their preservation obligations.

11. **SETTLEMENT MASTER.** All parties are invited to file any suggestions of person(s) to appoint as Special Settlement Master. The submissions must be filed two weeks prior to the initial conference and each submission shall not exceed three pages. Any responses/objections and/or support for persons suggested by other parties shall be filed on or before one week prior to the initial conference. The selection of a Special Settlement Master shall take place after the appointment of Plaintiffs' Lead Counsel and Steering Committee(s); the Court will set a hearing date.

12. **CASE WEBSITE.** The Court will maintain a website – accessible to counsel, the parties, the public, and the press free of charge – at http://cand.uscourts.gov/emc/chryslermdl. The website will include a list of dates and times of upcoming proceedings, along with significant court orders and other documents.

The Court orders Defendants to serve a copy of this order on counsel for the plaintiffs in the potential tag-along cases. Service shall be effected within one week of the date of this order, and Defendants shall, by the same date, file a proof of service certifying such.

IT IS SO ORDERED.

Dated: April 14, 2017

EDWARD M. CHEN
United States District Judge